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10/607,166	06/26/2003	Norikazu Ito	113380-005	5579

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EXAMINER	
ONUAKU, CHRISTOPHER O	
ART UNIT	PAPER NUMBER
2621	

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/607,166	ITO ET AL.	
	Examiner	Art Unit	
	Christopher Onuaku	2621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-11* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-11* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *26 June 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *9/22/03&8/9/04*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321© may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claim 1 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,625,390.

Regarding claim 1, claim 1 of the U.S. Patent No. U.S. Patent No. 6,625,390 cite the features of claim 1 of this application including a data recording and reproducing apparatus comprising means for recording and reproducing divided data for recording the divided data on the respective first non-linear accessible recording media, the divided data being inputted to the means for recording and reproducing divided data,

while reproducing the divided data recorded on the first non-linear accessible recording media, means for recording and reproducing error-correcting-code data for recording the error-correcting-code data on respective second non-linear accessible recording media, the error-correcting-code data being generated by the means for generating error-correcting-code data and inputted to the means for recording and reproducing error-correcting-code data recorded on the second non-linear accessible recording media (see lines 1-26).

The invention defined by claim 1 of U.S. Patent No. 6,625,390 is drawn to the same invention as claim 1 of this current application. Furthermore, claim 1 of current application is obvious over claim 1 of U.S. Patent No. 6,625,390 because claim 1 of current application is broader than claim 1 of U.S. Patent No. 6,625,390. Allowance of claim 1 would result in an unjustified time-wise extention of the monopoly previously granted for the invention defined by patent claim 1, therefore obviousness type double patenting is appropriate.

2. Claim 2 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 2 of U.S. Patent No. 6,625,390.

Regarding claim 2, claim 2 of the U.S. Patent No. U.S. Patent No. 6,625,390 cite the features of claim 2 of this application including a data recording and reproducing apparatus wherein the means for recording and reproducing divided data records the divided data on the respective first non-linear accessible recording media and the means for recording and reproducing error-correcting data records the error-correcting-

code data on the respective second non-linear accessible recording media (see lines 1-9).

The invention defined by claim 2 of U.S. Patent No. 6,625,390 is drawn to the same invention as claim 2 of this current application. Furthermore, claim 2 of current application is obvious over claim 2 of U.S. Patent No. 6,625,390 because claim 2 of current application is broader than claim 2 of U.S. Patent No. 6,625,390. Allowance of claim 2 would result in an unjustified time-wise extention of the monopoly previously granted for the invention defined by patent claim 2, therefore obviousness type double patenting is appropriate.

2. Claim 3 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 3 of U.S. Patent No. 6,625,390.

Regarding claim 3, claim 3 of the U.S. Patent No. U.S. Patent No. 6,625,390 cite the features of claim 3 of this application including a data recording and reproducing apparatus wherein the error-correcting-code data is Read-Solomon code data (see lines 1-3).

The invention defined by claim 3 of U.S. Patent No. 6,625,390 is drawn to the same invention as claim 3 of this current application. Furthermore, claim 3 of current application is obvious over claim 3 of U.S. Patent No. 6,625,390 because claim 3 of current application is broader than claim 3 of U.S. Patent No. 6,625,390. Allowance of claim 3 would result in an unjustified time-wise extention of the monopoly previously

granted for the invention defined by patent claim 3, therefore obviousness type double patenting is appropriate.

2. Claim 4 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 4 of U.S. Patent No. 6,625,390.

Regarding claim 4, claim 4 of the U.S. Patent No. U.S. Patent No. 6,625,390 cite the features of claim 4 of this application including a data recording and reproducing apparatus wherein the non-linear accessible recording medium is a hard disk (see lines 1-3).

The invention defined by claim 4 of U.S. Patent No. 6,625,390 is drawn to the same invention as claim 4 of this current application. Furthermore, claim 4 of current application is obvious over claim 4 of U.S. Patent No. 6,625,390 because claim 4 of current application is broader than claim 4 of U.S. Patent No. 6,625,390. Allowance of claim 4 would result in an unjustified time-wise extention of the monopoly previously granted for the invention defined by patent claim 4, therefore obviousness type double patenting is appropriate.

2. Claim 5 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,625,390.

Regarding claim 5, claim 1 of the U.S. Patent No. U.S. Patent No. 6,625,390 cite the features of claim 5 of this application including error-correcting means for performing error-correcting processing on the divided data using the error-correcting code data, the

divided data being reproduced by the means for recording and reproducing the divided data and inputted to the error-correcting means (see lines 27-34).

The invention defined by claim 1 of U.S. Patent No. 6,625,390 is drawn to the same invention as claim 5 of this current application. The pertinent features of claim 5 of current application may not be identical to the pertinent features of claim 1 of U.S. Patent No. 6,625,390 but they are not patently distinct. Furthermore, claim 5 of current application is obvious over claim 1 of U.S. Patent No. 6,625,390 because claim 5 of current application is broader than claim 1 of U.S. Patent No. 6,625,390. Allowance of claim 5 would result in an unjustified time-wise extention of the monopoly previously granted for the invention defined by patent claim 1, therefore obviousness type double patenting is appropriate.

2. Claim 6 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 33 of U.S. Patent No. 6,625,390.

Regarding claim 6, claim 33 of the U.S. Patent No. U.S. Patent No. 6,625,390 cite the features of claim 6 of this application including an AV server comprising a plurality of input/output processing means for converting data including visual and audio data inputted from outside to data which can be recorded on a non-linear accessible recording medium, while outputting the data outputted from the recording medium after converting the data to data which can be outputted outside, means for recording and reproducing divided data for recording a plurality of divided data obtained through dividing data outputted from each of the input/output processing means on a first non-

linear accessible recording medium, while reproducing divided data recorded on the first non-linear accessible recording medium, and means for recording and reproducing error-correcting-code data for generating the error-correcting-code data for the divided data to record the error-correcting-code data on a second non-linear accessible recording medium, while reproducing the error-correcting-code data recorded on the second non-linear accessible recording medium (see lines 1-21).

The invention defined by claim 33 of U.S. Patent No. 6,625,390 is drawn to the same invention as claim 6 of this current application. Although the conflicting claims are not identical, the features of claim 6 of current application are obvious over the pertinent of claim 33 of U.S. Patent No. 6,625,390 because features of claim 6 of current application are broader and encompasses the pertinent features of claim 33 of US Patent 6,625,390. Allowance of claim 6 would result in an unjustified time-wise extention of the monopoly previously granted for the invention defined by patent claim 33, therefore obviousness type double patenting is appropriate.

2. Claim 7 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 34 of U.S. Patent No. 6,625,390.

Regarding claim 7, claim 34 of the U.S. Patent No. U.S. Patent No. 6,625,390 cite the features of claim 7 of this application including a method or recording and reproducing data including a first step of recording a plurality of divided data obtained through dividing input data by a predetermined unit on a first non-linear accessible recording medium, while generating a plurality of error-correcting-code data for the

divided data to record the error-correcting-code data on a second non-linear accessible recording medium and a second step of reproducing the divided data recorded on the first non-linear accessible recording medium in the first step, while reproducing the error-correcting-code data recorded on the second non-linear accessible recording medium (see lines 1-14).

The invention defined by claim 34 of U.S. Patent No. 6,625,390 is drawn to the same invention as claim 7 of this current application. The pertinent features of claim 7 of current application may not be identical to the pertinent features of claim 34 of U.S. Patent No. 6,625,390 but they are not patently distinct. Furthermore, claim 7 of current application is obvious over claim 34 of U.S. Patent No. 6,625,390 because claim 7 of current application is broader than claim 34 of U.S. Patent No. 6,625,390. Allowance of claim 7 would result in an unjustified time-wise extention of the monopoly previously granted for the invention defined by patent claim 34, therefore obviousness type double patenting is appropriate.

2. Claim 8 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 37 of U.S. Patent No. 6,625,390.

Regarding claim 8, claim 37 of the U.S. Patent No. U.S. Patent No. 6,625,390 cite the features of claim 8 of this application including a method of recording and reproducing data wherein in the first step the divided data is recorded on the respective first recording media, while the error-correcting-code data is recorded on the respective second recording media (see lines 1-5).

The invention defined by claim 37 of U.S. Patent No. 6,625,390 is drawn to the same invention as claim 8 of this current application. Furthermore, claim 8 of current application is obvious over claim 37 of U.S. Patent No. 6,625,390 because claim 8 of current application is broader than claim 37 of U.S. Patent No. 6,625,390. Allowance of claim 8 would result in an unjustified time-wise extention of the monopoly previously granted for the invention defined by patent claim 37, therefore obviousness type double patenting is appropriate.

2. Claim 9 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 38 of U.S. Patent No. 6,625,390.

Regarding claim 9, claim 38 of the U.S. Patent No. U.S. Patent No. 6,625,390 cite the features of claim 9 of this application including a method of recording and reproducing data wherein the error-correcting-code data is Read Solomon code data (see lines 1-3).

The invention defined by claim 38 of U.S. Patent No. 6,625,390 is drawn to the same invention as claim 9 of this current application. Furthermore, claim 9 of current application is obvious over claim 38 of U.S. Patent No. 6,625,390 because claim 9 of current application is broader than claim 38 of U.S. Patent No. 6,625,390. Allowance of claim 9 would result in an unjustified time-wise extention of the monopoly previously granted for the invention defined by patent claim 38, therefore obviousness type double patenting is appropriate.

2. Claim 10 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 39 of U.S. Patent No. 6,625,390.

Regarding claim 10, claim 39 of the U.S. Patent No. U.S. Patent No. 6,625,390 cite the features of claim 10 of this application including a method of recording and reproducing data wherein the first and second non-linear accessible recording media are hard disks (see lines 1-3).

The invention defined by claim 39 of U.S. Patent No. 6,625,390 is drawn to the same invention as claim 10 of this current application. Furthermore, claim 10 of current application is obvious over claim 39 of U.S. Patent No. 6,625,390 because claim 10 of current application is broader than claim 39 of U.S. Patent No. 6,625,390. Allowance of claim 10 would result in an unjustified time-wise extention of the monopoly previously granted for the invention defined by patent claim 39, therefore obviousness type double patenting is appropriate.

2. Claim 11 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 41 of U.S. Patent No. 6,625,390.

Regarding claim 11, claim 41 of the U.S. Patent No. 6,625,390 cite the features of claim 11 of this application including a method of recording and reproducing data wherein the restoring processing is performed if the divided data is not recorded on the first recording medium or the divied data recorded on the first recording medium is not reproduced (see lines 1-5)

The invention defined by claim 41 of U.S. Patent No. 6,625,390 is drawn to the same invention as claim 11 of this current application. Although the conflicting claims are not identical, the features of claim 11 of current application are obvious over the pertinent features of claim 41 of U.S. Patent No. 6,625,390 because features of claim 11 of current application are broader and encompasses the pertinent features of claim 41 of US Patent 6,625,390. Allowance of claim 11 would result in an unjustified time-wise extention of the monopoly previously granted for the invention defined by patent claim 41, therefore obviousness type double patenting is appropriate.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher Onuaku whose telephone number is 571-272-7379. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Groody can be reached on 571-272-7950. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

COO
5/18/06

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